with lime and salt mixture. I have not found a single clump-footed cabbage plant out of 60,000 raised this year.

ANDREW S. FULLER said one of his neighbors had tried lime and salt in a very heavy dose upon his cabbage plants, and they were all clump-footed.

T. W. FIELD—Farmers are too much in the habit of using one specific manure—all horse manure, or all cow manure. One of my neighbors has conquered his prejudices so far as to give up this practice, and now recommends mixing every sort of fertilizer together.

SOLON ROBINSON—This is simply carrying out the doctrine of composting, which every one who ever tried it knows the value of. Although it requires labor, I believe it is labor profitably expended. Manure should be in a pulverulent state when applied to the soil. That is one reason of success with guano.

ANDREW S. FULLER—I have seen nursery trees growing at Flushing on dry, almost barren knolls, by the use of salt marsh mud. I would spread it in the Fall, let it freeze and harrow it fine in the Spring. A farmer down the Island has used salt mud largely on all his farm, and thinks it the best and cheapest manure that he ever used. It is my opinion that we have a manure bed all around here richer than a gold mine.

THOMAS W. FIELD—There is a great difference in the constituent character of salt mud. The top of a marsh is a mass of fine roots. Below it is plastic mud, then thinner and thinner until it is almost as liquid as water. I have found half the weight of salt mud to be composed of living things. The finest pears exhibited one year at Boston, grew over a salt marsh. The finest asparagus I ever saw grew upon ground filled in upon salt marsh. It is the best manure for asparagus undoubtedly that can be used.

African Cattle.—The Rev. Mr. ADAMSON, Secretary of the Geographical Society of this city, gave the Club a discourse upon the oxen of Southern Africa. A marked feature of them is large horns, heavy fore quarters, with a hump on the shoulders. They are generally used fourteen oxen in a team, hitched to ponderous wagons. The general extent of a farm is five or six thousand acres, and the people don't think that a family can be supported very well upon less land than that. The grain raised is wheat of a good quality, and it is common to sow 20 or 30 acres, and use that soil until it fails, and then plow up a new spot. The same practice is a little too common in this country. The cattle are generally very stubborn and hard to train. They are tall and big boned, and travel with great speed. The sheep kept there are of the broad-tailed sort, the tail sometimes growing to a mass of fat of ten or twelve pounds, which is in some measure a substitute for butter with the people.

The next meeting of the Club will be Monday, Aug. 16; the subject, Fruits suitable for the farm generally.

MR. WAIBRIDGE TO THE PENNSYLVANIA BANKS.

To the Editor of The N. Y. Tribune.

SIR: In your paper of the 23d inst. you copy, prominently, from *The Philadelphia North American*, comments upon a recent report of a Special Committee of the House of Representatives of Pennsylvania to his Excellency, Gov. Packer, regarding certain banks in that State. In a subsequent paper you comment upon the same report. In both of which I am placed in a position before the public which does me great injustice, and I desire to say a few words in reply, to correct the grossly outrageous misstatement of the facts as they really exist, but which in that report are evidently made up for purposes of personal notoriety instead of any desire to benefit the public.

The only interest I ever had in any bank in Pennsylvania, was in the Bank of Crawford County and the Tioga County Bank, both of which I assisted to organize. These banks were in a sound condition when examined by the Committee, and not in any danger themselves or dangerous to the public, as might be inferred by the report.

The Bank of Crawford County when under examination by the Committee exhibited to them the following condition:

Liabilities (except capital stock)	$46,817 45
Cash assets in gold and silver currency, and funds subject to drafts	21,217 96

Making one dollar cash assets for every two and one-eighth dollars liabilities, beside *good* bills receivable, made by parties in the immediate vicinity of the bank, to meet all its liabilities. This bank redeemed its circulating notes in coin all through the recent suspension of specie payments by the banks of Pennsylvania, and is doing the same thing now.

The Tioga County Bank, from a circulation of $70,000 (the highest it ever attained) about the 15th May last, had reduced the same to $43,000 at the time it was examined by the Committee, and it does not now exceed $27,000. *It* also promptly redeemed all demands upon it during the recent suspension in that State."

The subscriptions to the stock in both cases were made under the best legal advice, and the authority of sworn Commissioners, appointed by law and approved by the proper State officers, when the letters patent were issued thereon. The powers of attorney under which a part of the stock was subscribed were never seen by the Committee; therefore their comments upon them were entirely gratuitous and very unfair.

These banks have done a large legitimate home business to the great accommodation of the business men in their respective counties, which fact was well known to the Committee, but it seems to have been no part of their business or intention to state anything in their report which would be likely to create a favorable impression, while on the contrary they seem to have spared no pains to garble, distort and misstate facts to serve the parties who procured their appointment.

The Committee take occasion in their report by innuendo and insinuation—which are as disgraceful to themselves as unmanly toward me—to discredit my testimony, justify themselves by stating that Mr. Tucker, one of the Commissioners, swore upon some points differently from me, but they wholly omit to state the fact, that Mr. Davis, an *acting Commissioner*, and Mr. Brooks, the *Clerk of the Commissioners*, both men of high respectability, were sworn to the same points, and corroborated my testimony in nearly every particular; they were witnesses called by the Committee, and the only ones that were called on the point to which they refer. Two agreed with me, one did not entirely. The fairness of this course I submit to a candid public.

The Committee had no legal right to make the examination, being empowered by only one House, while the bank laws of Pennsylvania require every committee authorized to examine banks to be by joint action of the Senate and House. *The object of this appointment was too well known in the Senate for the movers to get their coöperation for their appointment, or an appropriation for their pay.* But the officers of the Bank permitted the examination voluntarily, and offered every facility for its prosecution, because they had nothing to conceal, but rather sought such an exhibit as would result from a fair report. They knew the movement was originally instituted by the "Lobby" at Harrisburg, to extort "black mail;" this fact was well known at Harrisburg. No overtures were made by the banks, and so the Committee, nearly *three months* after their appointment, and after making a pleasure trip to Chicago, stopped and made the examination, and a report, wherein, in violation of all honor, they have garbled the evidence taken, misstated the information elicited, and substituted their conclusions for facts.

After the examinations in both cases alluded to, the members of the Committee *expressed themselves* as entirely satisfied with the condition and management of the respective banks. Yet, subsequently, one of the party was overheard to say at a dinner table, that "they must give the banks h—l, or the people would "never be satisfied."

Under the circumstances which transpired, I should be at a loss to account for their course, except that it was too good an opportunity for "Buncombe," and the Committee made the most of it, regardless of justice and the injury they might do others. It was also essential that they should in some way insure their pay from the next Legislature, which was not provided for in their appointment; and being politicians, they must so popularize themselves as to insure their own return to that body. This would necessarily involve a sacrifice of principle, and they made it.

The public good would have been fully served by simply telling the truth, and then no harm would have come to myself and others.

I have no desire to call in question the motives of the action of this Committee, any further than is necessary to defend myself from the unjust imputations contained in their report, which served as a basis for comment by the public press, greatly to the injury of my reputation where I am not personally known.

WELLS D. WALBRIDGE.

Buffalo, July 26, 1858.

WOMAN'S RIGHTS—JOHN P. HALE.

To the Editor of The N. Y. Tribune.

SIR: Will you allow me to say a few words in your paper, in regard to Senator Hale's remarks concerning Female Suffrage. It is truly astonishing that such a man should express in public, at the present time, those old foggy, nonsensical reasons, why women should not vote, which have been worn out and set aside as worthless years ago. Lucy Stone used to tell those, who were soft enough to express such views to her as the worthy Senator did to the ladies of Andover, that we would have a place set apart where the women could vote, and all decent men might vote with them. Mr. Hale does not seem to think it degrading for the ladies to understand political matters. But the "influences of the polls" are so "contaminating," that women must train their sons and brothers, lovers and husbands, to go there, and do their business for them. Grand idea this, for men to act as machines under the management of women! Perhaps this is the reason why the men in the cities have not been "refined or elevated" by going to the ballot box. It seems very strange, that the public gatherings for the election of our magistrates, in which women are not allowed to take part, are so extremely demoralizing. If this is really the case, we should seek for the cause; and I think if Mr. Hale should investigate the subject properly, he would find the absence of women the true one. We have no reason to expect, until every woman accompanies her "willing friend" to the ballot box, that the men in the cities or country either will become "ennobled, refined, or elevated." I suppose Mr. Hale thinks it very unreasonable for "unfortunate females" to be always complaining of "their limited spheres," when they can "obtain all the "good in life which they deserve." "Instead of sitting down and sighing over the allotments of our condition," we should toil on faithfully and zealously, and cheerfully aid in supporting the wise statesmen, who make such wholesome and beneficent laws for us. The slaveholder thinks it unreasonable for his well-fed slave to be dissatisfied with his lot, and leave him in an unexpected moment. It seems as difficult for Senator Hale to understand the position of woman, as for a Southerner that of the poor colored man.

ALMEDA D. REYNOLDS.

Antioch College, July 29, 1858.

CITY ITEMS.

THE JONES'S WOOD FESTIVAL.—The three days' musical festival which was announced to be opened yesterday at Jones's Wood, did not take place according to the programme, owing to the unpropitious state of the weather. Though at no time was there much rain, yet the threatening aspect of the clouds was sufficient to prevent any but a meager attendance of the lovers of out-of-door enjoyment. The place was fitted up for the purposes of the festival. A large stand had been erected for the dancers, around which were suspended various flags. Fifty policemen were on the ground to preserve order, but after waiting until nearly one o'clock notice was given that the festival was postponed until to-day. During the afternoon two or three hundred people arrived on the ground, and they amused themselves as best they could by waltzing after the music of a single accordeon, or by walks through the grove.

MRS. SMITH'S ECONOMY—THE REMNANT OF CARPET.—Mrs. Smith was a saving woman. There is an old saw about "saving at the spiggot," &c., but that of course has nothing to do with Mrs. Smith. She was not mean—she was saving. Mrs. Smith bought a new carpet—a nice carpet—a pretty-figured carpet—that cost, we suppose, twelve York shillings a yard—perhaps fourteen. With all due care in buying an exact quantity, there was a remnant left of, we should say, somewhere between a yard and a yard and a half. Of course it was not only saved, but carefully laid away. Occasionally, in the course of the next two or three years, Smith saw the remnant of carpet out for an airing. At length he said:

"Why, Kitty, what on earth are you keeping that remnant for?"

"Why, you wouldn't have it wasted, would you? I shall make something out of it yet." She was right. She did. She had not saved it so long for nothing. A bright idea at length struck her how to make something out of it.

Among Smith's customers was a journeyman cabinet-maker, who loved to come in of an evening and enjoy a taste of good old Scotch whisky punch, and have a chat and a smoke. Scotia's sons do love to meet together and have a social glass. Now the bright idea of Mrs. Smith was that she would get Robb, the cabinet-maker, to make her a pair of footstools, ottomans, or something else—little nondescript things that ladies have in parlors—neither chair, bench nor stool—good for nothing to sit on, and of no account for anything else, except to stumble over. A pair of these she would have made, and that would save the remnant of carpet.

"No doubt," said she to herself, in thinking over the economy of the thing—"No doubt Robb will take it all out in trade, and that will be a saving."

So she called him in, told him what she wanted, and showed him the piece of carpet saved so long, and now to be at length appropriated to a profitable purpose.

"Yes, it will make very nice tops, and there is plenty to make a large-sized pair. Will you have them of mahogany, black walnut or rosewood?"

She was not particular; she wanted them nice, and he might make them of anything he pleased—"any remnants that he could pick up about the shop."

Mrs. Smith asked—no, she told her husband about the arrangement, and he said:

"Just as you like; I don't care."

Time wore on. Robert drank and smoked, and worked; he worked slow, but he worked sure, for by and by he brought in one evening the new articles of parlor furniture, the contrivances for saving carpet remnants. Mr. Smith thought them good-looking and sent them up stairs. Mrs. Smith was delighted with them. They were "beautiful"—"just the thing—exactly what she wanted"—"such a match to the parlor carpet, she was really proud of them." And we may be allowed to say, proud also of her economy of housekeeping. "Some folks would have wasted that carpet, or let the moths eat it, or let it lay round loose, of no use."

By and by, business over in the shop, Smith came up. Smith must go and see them, but somehow he could not see quite as much beauty in them as his wife did, and in fact they did not look near as well as they did when he first saw them, and as for the economy of the thing, that he couldn't see a bit of; but he looked, bit his lip and said nothing. He thought, "Well, they are a woman's bauble, bought and paid for, so let it go. But I hope there are no more little remnants of carpet round the house to be saved."

But, he said, good naturedly, in answer to the question, "Yes, they look very well."

"Oh, they are perfect gems. Now I hope you never will laugh at me again for being so saving."

"No, he thought he shouldn't—it was not a laughing matter."

"By-the-by Smith, how much did Robb charge for the job?"

"Eighteen dollars!"

"Eigh——" her jaw fell before the other syllable would come out, for she saw by Smith's face that he was in earnest. It was no laughing matter. It never has been since, but it has been a standing lesson of family economy, and will probably descend to the next generation as such.

A beautiful photographic portrait of Senator Crittenden of Kentucky has been published by Mr. M. B. Brady.

At the meeting of the Tammany Society last evening, Daniel E. Delevan was elected a member of the Council of Sachems, to fill the vacancy caused by the elevation of Isaac V. Fowler to the position of Grand Sachem.

Our readers will remember the murder of Major Loring by Dr. Graham, at the St. Nicholas Hotel, New-York, a few years ago—the trial, conviction, and sentence of the murderer to the State Prison for seven years, and his pardon by Gov. Clark. This worthy, it is said, has just been elected a city physician by the Know Nothing Council of New Orleans.

EXCISE COMMISSIONERS.—Messrs. Holmes and Haskett met yesterday, and granted an innkeeper's license to Mr. Montgomery E. Giller of No. 204 Bleecker street, after which they adjourned to this afternoon, at 3 o'clock.

It is stated that on Sunday Judge Duer of the Supreme Court had a severe attack of paralysis, and has been speechless since. His physicians have but little hope of his recovery.

THE DISAPPEARANCE OF MAITLAND.—*The Sun* of Monday morning says:

On Friday afternoon at 1 o'clock he left his house in Degraw street, Brooklyn, in a state of great excitement. A half an hour later he called at *The Sun* office with the manuscript of a story intended for publication in our paper, and which was to be left for inspection before acceptance. He then stated that he had received intelligence from England that twenty-five or thirty thousand dollars worth of property had fallen to him, and that business required his immediate presence at St. Louis, and from thence he would go to England direct. He expected to leave for St. Louis at 6 p. m. on Friday. If an examination were waived, the story accepted and price paid at once, he would be greatly obliged. To accommodate him, this was partially done, and some time before 6 o'clock Mr. Maitland received his money and left.

From what we have heard there is no doubt that Maitland has not committed suicide. When a man contemplates self-destruction he does not usually provide himself with a good traveling trunk, filled it with his best clothes, and send it off by express, following, himself, on foot, with an umbrella under his arm. He will doubtless soon turn up again, somewhere beyond the reach of importunate friends.

TRIAL OF STEPHEN H. BRANCH FOR ALLEGED LIBEL.—The trial of Stephen H. Branch for an alleged criminal libel on Daniel F. Tiemann, Simeon Draper and Isaac Bell, jr., relative to their conduct when Governors of the Alms-House, was set down for yesterday before the Court of General Sessions, Recorder Barnard presiding. Mr. Branch appeared in Court with his counsel, John W. Ashmead, esq., and his witnesses, and announced himself ready to proceed to trial. Owing to the absence of some of the witnesses for the prosecution the case went over to this day at 11 o'clock.

COLORED EMIGRATION CONVENTION.—On Wednesday, Aug. 4, a "National Emigration Convention" of colored people is to be held at Chatham, C. W., to inaugurate measures designed to lead to the establishment of a separate nationality for the colored people of the United States. The country of Yoruba, in Western Central Africa, is the point which many have thought desirable. It is expected that delegates from fifteen of the States and from Canada will be present, and that steps will be taken to send out an expedition to inquire into the advantages which Yoruba presents for commerce and agriculture, and particularly for the cultivation of cotton. If the report be favorable, there will probably be a large emigration of colored persons from the United States to that place, to found a Christian State and introduce Christian civilization into Central Africa.

INDUCING A YOUNG MAN TO COMMIT ARSON.—Yesterday morning Fire Marshal Baker arrested Samuel Phillips, a merchant, doing business at No. 73 Maiden lane, on a warrant issued by Justice Connolly, the accused being charged with attempting to persuade and suborn one James Smith to feloniously set fire to a row of frame dwelling houses situated on Walton street, on the corner of Harrison avenue, in Brooklyn. The following is the substance of the evidence adduced before the Magistrate: During the last week it appears that Phillips accosted Smith, who is a young fellow about 19 years of age, corner of Bayard and Elizabeth streets, and told him that he would give him a job, and that if he did it well and to his (Phillips) satisfaction, he would give him $50 and a good situation for life. Smith asked what the job was, when Phillips informed him that he owned twenty frame houses in Brooklyn, that the houses were greatly out of repair, and that most of the persons who occupied them did not pay any rent, and that if he (Smith) would burn them up, which he could "do as easy as anything," he would give him $50 and make him an elegant present beside. Smith partly consented and said he would go over and look at the houses. Phillips directed him to take the Greenpoint car from Fulton Ferry and gave him twenty-five cents to pay his expenses. Subsequently another interview was had, when Phillips gave Smith one dollar to purchase camphene and wadding with, and directed him to saturate the latter in the fluid and stuff it well in between the lath and plaster from one room to another, so that the fire would extend rapidly. At another meeting Phillips asked Smith how he got along, when the latter replied that he had stuffed in the wadding and saturated it well with the camphene. Smith informed some of his friends of the job he had in hand, and they advised him to have nothing to do with it, and to notify the Fire Marshal. In addition to Smith's testimony John Kerrigan testified that he had seen Mr. Phillips in the street in the vicinity of Smith's residence in Division street, and while passing them on one occasion heard something said about camphene, wadding or cotton. Further affidavits were produced showing that Phillips has an insurance of $3,000 on the twenty cottages in question, divided between the United States and Mechanics' and Traders' Insurance Companies.

The accused was conveyed before Justice Osborn and held to bail in the sum of $500 to answer the charge.

STREET FIGHT.—An altercation took place yesterday about noon in Nassau street, between Charles G. Thompson, a real-estate broker, and Henry Morrison, a lawyer, commencing with hard words and ending with blows. It is said that Thompson made the first demonstration, both orally and physically, when Morrison clinched and gave him a pummeling in scientific style, leaving two black eyes.

THREE MURDERERS SENT TO NEW-ORLEANS.—Officer James Cooper of New-Orleans arrived here yesterday, bearing a requisition from the Governor of Louisiana for the arrest of three men who committed a horrible murder some time since in the Balize, on an outward-bound ship. Their names are John Shields, George Williamson, and John F. Thone alias William Thomas. The murderous assault was committed on a man named Burrell, under circumstances of peculiar atrocity, Shields having literally mashed the head of the unfortunate man with a slung-shot, and the two accomplices then assisted in throwing the body overboard. All the parties were drunk at the time. The officer from Louisiana presented his requisition to Gov. King, who issued a warrant for the arrest of the criminals, which was "backed" by the Mayor, and handed over to Officer Davis of the Mayor's squad to execute. Officer Davis called on Marshal Rynders, in whose custody the criminals have been for three or four days. The Marshal handed them over to Officer Davis, who in turn gave them into the custody of Officer Cooper. They were all heavily manacled, and will soon be on their way to New-Orleans, to be tried and punished for their terrible crime. Rum was the moving cause of the whole fiendish deed.

ASSAULT UPON A LITTLE GIRL.—Yesterday morning the Ninth Precinct Police arrested a fellow named John Landrine, charged with committing an outrageous assault upon the person of Mary Lewis, a little girl only eight years of age. Mrs. Catharine Lewis, mother of the child, residing at No. 55 Eighth avenue, appeared before Justice Kelly, at the Jefferson Market Police Court, and made affidavit, setting forth that on Sunday afternoon her daughter came running into the room spitting and vomiting and crying most piteously. Mrs. Lewis asked her what was the matter, when she promised to tell if she would not whip her. The mother made the required promise, whereupon the child in her own way gave an account of the outrage. Dr. Doolittle, who made an examination of the child, testified that that she had been much injured. Justice Kelly committed the fellow to prison for examination.

ALLEGED FELONIOUS ASSAULT.—Yesterday morning Henry Apple and John Nelling got into an altercation about some trial matter at No 163 Second street. Nelling had his wrist badly cut, and charges Apple with inflicting the injury. Apple says Nelling hurt himself, by thrusting his hand through a pane of glass. Justice Brennan sent Apple to prison.

ROBBING A CUSTOM-HOUSE WATCHMAN.—John W. Cudney, a Custom-House watchman, while in the vicinity of West Washington Market about 1 o'clock yesterday morning, was accosted by Frederick Ramsey, a fellow known as "Boston Bill," and another man. Ramsey, as is alleged, struck Cudney and knocked him down, when the other man violently seized him and abstracted from his pockets $16 in gold and silver, after which the three highwaymen ran off. Ramsey was subsequently arrested by Officer Galloway, and taken before Justice Osborn, who locked him up in default of $2,000 bail. Boston Bill and the other confederate are still at large.

THE MURDER IN CENTRE STREET—ARREST ON SUSPICION.—Coroner Gamble yesterday proceeded to the Hospital and impaneled a Jury for the purpose of holding an inquisition on the remains of Cornelius Rady, who was murdered at the corner of Centre and Worth streets by a gang of Five-Point rowdies, as already reported. Owing, however, to the absence of material witnesses, the case was further adjourned till this forenoon. John Quinlan, a well known Sixth-Warder, was taken into custody by Policeman Gilligan, on suspicion of being concerned in the murder, or knowing who the real perpetrators are. The prisoner was detained to await the result of the investigation. Officers Knight and Sullivan were detailed to work up the matter, and if possible to arrest the murderers, but Deputy Superintendent Carpenter only allowed them till 12 o'clock last night to do it in. These officers have obtained information which points directly toward one or two men who doubtless committed the deed, and it may require days to arrest them, as they are being secreted by their friends till a safe opportunity is offered for them to leave the city and perhaps the country.

It has been insinuated that some men of character, and holding office, know perfectly well who so unprovokedly took the life of Rady, and that they are conniving at the escape of the guilty parties. That there are hundreds of persons in the Sixth Ward aware of who killed the innocent man there is not a particle of doubt; and with this knowledge before him, Inspector Dowling should be able to obtain information necessary to further the ends of justice in this matter. After the Jury viewed the remains of Rady, Coroner Gamble gave permission for the friends to remove the body to his late residence, where the funeral will take place.

FEARFUL LEAP.—James Mellan, a resident of Eleventh avenue, between Forty-seventh and Forty-eighth streets, while in a fit of delirium tremens, on Sunday night, jumped out of a third-story window, and was severely injured. He was sent to Bellevue Hospital.

BURGLARY.—The dwelling house No. 44 King street, occupied by Mr. Morrison and the Rev. J. B. Steele, was entered by burglars on Sunday morning, and robbed of articles of silver and clothing to the amount of $50.

LAW INTELLIGENCE.

CASE OF MICHAEL CANCEMI.

SUPREME COURT—CHAMBERS—AUG. 2.—Before Judge INGRAHAM.

The People agt. Michael Cancemi.

This morning Judge Ingraham delivered the following opinion, allowing a writ of error and stay of proceedings and further amending the record. The case will be taken to the Court of Appeals in October next:

INGRAHAM, J.—Application is made to me for a stay of proceedings upon the writ of error in this case. The exceptions taken upon the trial were considered by the General Term as not well taken and were overruled. If the application rested solely upon the exceptions I should hesitate before granting this motion.

There is, however, in this case the question which arises as to the mode of trial by eleven Jurors. It is true that the twelfth Juror was discharged at the request of the prisoner and under stipulations which, on any other than a capital case, the Court might feel at liberty to enforce between the parties. It presents, however, a question, and one which, so far as I have been able to examine the books, is without precedent in a case in which the life of the prisoner is at stake. Some of the cases which refer to the question when it has arisen upon the mere consent of the prisoner speak of such an occurrence on the trial as a fatal error, while others admit that the prisoner might waive the right to a full Jury. I do not feel at liberty to say that the prisoner should not be permitted to submit his case to the appellate Court. It has been urged against this application that the record shows the trial to have been by the full Jury, and that this was in accordance with the agreement and stipulation of the prisoner. I cannot for a moment entertain the idea that a court of justice having the life of the prisoner at their disposal should on such a ground deny the prisoner the right of appeal. If he had the power to waive a Juror, then the Court on appeal will sustain the judgment. If he had no such power, his agreement to the trial by eleven Jurors justifies neither Court nor officer in taking his life. I should be unwilling in any way to deprive the prisoner of having this question submitted to the appellate Court. The General Term directed this to be inserted as one of the grounds in arrest of judgment, and the order of Judge Sutherland to amend the record was made for the purpose of more distinctly presenting this question to the Court upon the writ of error.

Under these circumstances I am of the opinion that the application to stay the proceedings upon the judgment should be granted.

MOTION TO AMEND THE RECORD GRANTED.

The People agt. Michael Cancemi.

INGRAHAM, J.—The amendment which the District-Attorney asks to be made to the record is not objected to by the prisoner's counsel, is consistent with the fact, and was rendered necessary by the amendment proposed on the part of the prisoner. The first amendment is to insert previous to the application by the Attorney General to Judge Wright to amend the postea the following: "The counsel for the prisoner moved "the General Term to amend the postea, which motion "was denied by the General Term, and the counsel "were directed to make such motion to the Justice "before whom the cause was tried."

The second amendment is to insert in the fourth line of the statement of the application to Justice Wright for an amendment of the postea, after the words, "in "arrest of judgment," the words, "and before sentence "was pronounced upon the prisoner and before the "signing of the judgment record by the Judge at "General Term."

The motion to amend is granted, and such amendment is ordered to be made by annexing a copy of the order therefor to the record.

DECISIONS.

Harriet P. Loud agt. Warren Loud.—Report of referee confirmed, and order for payment of counsel fee and alimony granted.

In the matter of the appeal of Michael Price Moore from the final order of Surrogate, in the matter of the accounting of said Moore as executor of Louis Moore, deceased.—Motion granted on payment of costs of former motion and of this motion, and upon condition that the plaintiff's proceedings shall not be stayed, or his rights affected on such appeal.

Daniel L. Harris agt. Elisha C. Litchfield.—Motion granted with $10 costs.

ANOTHER SUIT AGAINST THE EDITOR OF THE WAY OF LIFE.

John C. Hall and George B. Maigne agt. George P. Edgar and Wm. Herries.

This suit is brought against the defendants by the printers of *The Way of Life*. The affidavit of Mr. Hall states that Mr. Edgar induced him to print the paper, and to purchase some new fonts of type, by representing to him that he was abundantly able to meet any and all of the obligations he should create from said *Way of Life*, and that he by such means wrongfully and fraudulently incurred a debt, owing to deponent, of about $1,300; that from the representations made to him by Mr. Edgar he was led to believe that the latter was doing at least $8,000 or $10,000 in the drug business; that Edgar also told Mr. Hall that he was able to carry on the business of publishing *The Way of Life* from his own means; that all the representations made by him as to his drug business and his means and property were wholly false and deceptive; that all the means or value that Mr. Edgar received from his drug business, and which he put into the firm of Edgar & Herries as capital—according to his own statement—of *The Way of Life*, was in three or four notes, amounting to about $3,200, which notes were made by a young man named Walker, alleged to be unpossessed of any property whatever, and to whom Edgar said out his said drug business; that said Walker, about the 22d of last month, at a meeting of the creditors of the defendant, gave notice to them by stating that he should not pay the said notes because they were obtained from him by said Edgar under representations which were wholly false and deceptive; that Mr. Walker further alleges that at the time the notes were given, Mr. Edgar told the said Walker that the business was a good paying business, and that the receipts from said business would pay the said notes as they became due; all of these representations, the deponent, as speaking for Mr. Walker, alleges to have been made with fraudulent intent.

The partner of Mr. Edgar, Mr. Wm. Herries, makes an affidavit, in which he denies being cognizant of the issue of the notes to Walker. He also states that when he formed the partnership with said Edgar, he did so on the assurance that it was to be carried on out of Edgar's own means as regards the receipts and expenditures of the paper for one year; also that Edgar has received all the proceeds of *The Way of Life*, and appropriated them to his own use, without the knowledge of deponent, who has only received out of the proceeds of the speculation about $60; that since the discontinuance of *The Way of Life* Edgar has received from subscriptions and bills due sundry moneys, and he retains the same for himself; that several sums of money belong to subscribers living at a distance, who have sent their subscriptions to *The Way of Life* without their knowledge, and that it has been discontinued. In conclusion, he says that he has withdrawn his connection from partnership with Mr. Edgar.

THE WEST WASHINGTON MARKET CONTROVERSY.

THE TITLE VESTED IN THE STATE—APPOINTMENT OF CYRUS CURTISS, ESQ., RECEIVER.

SUPREME COURT—SPECIAL TERM—AUG. 2.—Before Judge DAVIES.

The People of the State of New-York, and Owen Brennan and James Taylor, agt. The Mayor, Aldermen and Commonalty of the City of New-York and Others.

MOTION BY PLAINTIFFS FOR RECEIVER AND INJUNCTION.

Hutchins, Stoughton and Van Buren for plaintiffs; Busteed, McKeon, Noyes and O'Conor for defendants.

DAVIES, J.—The facts charged in the complaint are, that the people of the State are owners in fee of certain premises in the City of New-York, lying on the westerly side of that street between Vesey and Day streets, and extending westerly about 440 feet.

That the defendants, the Corporation of New-York, have taken possession thereof and have rented the same for market and other purposes.

That the People have made and executed to the plaintiffs, Taylor & Brennan, a lease for said premises for one year from April 24, 1858, at an annual rent of $5,000, payable quarterly.

That the defendants withhold from Taylor & Brennan the possession of the premises, and that they are entitled to the rents and profits of the same from April 24, 1858.

That the tenants of the premises pay the rent thereof to the defendants, and refuse to acknowledge the right of the plaintiffs to pay them the rent thereof.

That a small portion only of the rents collected have been paid into the city treasury, and that the persons so acting in the collection of the rents are pecuniarily irresponsible and are not authorized to act. That the amount so paid is annually more than the sum of $40,000, and that the moneys are paid weekly.

That it would be the duty of the Collector of the City Revenue to collect and receive such rents, if the same really belonged to the city, but that the same were collected by some other person.

That the Controller of the City has received but a small portion if any of the rents collected; that he has stated that the premises belong to the State, and therefore that the city has no right to collect and enforce payment of the same, and that for this reason he has refrained from exercising that control over the property which he would have done if it belonged to the city.

That the occupants of the premises are men of little or no pecuniary means, that they pay their rent weekly in advance, and that the same is in danger of being wholly lost by reason of their want of means and the residence of many of them out of the State.

That the Controller has stated that in his opinion a receiver ought to be appointed to take charge of and collect said rents and hold them for the benefit of whomsoever may be entitled thereto.

On the hearing other affidavits were made on the part of the plaintiffs, showing that the premises in controversy were outside the 400 feet from low water mark on the North River.

That the Mayor of the City has concurred in the opinion of the Controller, that the title to the land is in the State and not in the city, and that the city has no right to have it or use the same.

On the part of the defendants, the Corporation, there is produced the affidavits of Mr. Serrell, City Surveyor, setting forth that the premises in question have been reclaimed by the defendants, the Corporation, from the North River by filling in the same. That such filling in began in 1844, and was completed in 1853; that since such filling in, the defendants, the Corporation, by their officers and agents, have rented the said premises, have claimed to own the same, and exercised acts of dominion over the same, and received the rents thereof in their own right.

Mr. Flagg, the Controller, states that such filling was done under a claim of title to the land under water, and that since such filling, the defendants, the Corporation, have been in actual possession thereof, claiming to own the same in fee simple.

He further states that the rents of said premises are being collected by Robt. A. Haggerty, duly appointed for that purpose by the defendants, and that the same are being faithfully collected by him and paid into the city treasury.

That he has always supposed that it was the duty of said Corporation to collect such rents, whether the title to the said premises was actually vested in the defendants, the Corporation or the State, that he is not of the opinion that the appointment of a receiver is necessary to protect either the interests of the State or of the city; that said rents are now in due course of collection, and by proper persons.

The Mayor makes an affidavit expressing the same views.

The affidavit of Benson shows, that as Clerk of the Market, previous to the commencement of this suit, he collected the rents from the premises, and paid them over to the Corporation.

The affidavit of Haggerty shows that since the commencement of this suit he has been appointed as an officer of the finance department of the defendants to collect said rents, and has collected the same, and paid them over to the Corporation.

First, as to the title of the city to the premises in question.

It is conceded that they lie outside of the 400 feet granted to the Corporation by the Montgomerie charter. The Dongan charter conveyed to the city land between high and low water mark, all around the island, and the Montgomerie charter (1730) granted to the Corporation, on the North River, a slip of land extending into the river 400 feet from low water mark.

In 1798, the Legislature passed an act authorizing the Corporation to lay out exterior streets on both rivers, of the width of 70 feet, and such streets were to be built at the expense of the owners of the adjoining lots, fronting on the same, and the intervening spaces were to be filled up by them, and such proprietors filling up the intermediate spaces of ground were to become owners of the same in fee simple.

In the case of The Mayor, &c., agt. Farmer (5 Sand S. C. Rep. 16) the Superior Court held that the proprietors referred to are the grantees of the Corporation or their assigns who had received grants to the full extent of the 400 feet owned by the Corporation, and that the intermediate spaces were those which in consequence of the irregularity of the shores sometimes intervened between the extremity of the Corporation grants, &c., regular streets in front of the river which the act authorized to be built, and that these intervening spaces belonged to the State and were granted by the State to the adjoining proprietors on the conditions expressed in the acts.

This case was taken to the Court of Appeals, and the judgment affirmed upon the grounds taken in the Superior Court. The Corporation, as the owner of lands fronting on the river, built new streets and filled up the intermediate spaces, and became therefore the owners in fee simple of the lands extending to the westerly side of West street. There their ownership terminated, and that of the people of the State commenced. They, as representing the Crown, or former sovereign, own the bed of all navigable rivers which have flux and reflux of the sea, and as such owners have the right to grant and sell the same, without reference to the owner of the adjacent upland, and the grantee of the Crown and State can so build upon or improve the land so granted as to cut off the owner of the land from all access to the water. These points were distinctly ruled in the case of Gould agt. the Hudson River Railroad Co. (2 Selden, 522.)

By section 5 of the act of 1798 it was made lawful for the Corporation to direct piers to be sunk and completed in such manner as they might think proper, in front of said streets or wharves, at the expense of the proprietors of the lots lying opposite to the places at which said piers should be sunk. In case the proprietors refused to sink and build the piers, the Corporation might do so, and receive the wharfage to their own use.

From the facts before me it appears that the Corporation have built a bulkhead upon the lands of the State, some 400 feet west of West street, and filled in the intermediate space and erected their buildings, which are used for market purposes. I do not find any title set up in these premises by the Corporation, though it seems by the affidavit of Mr. Serrell that, at the time of the filling, it was done under claim of title. Upon what ground we have no information, and I am greatly at a loss to perceive any.

So little doubt has been entertained on this subject that the present Comptroller, who has large experience in city affairs, and who is not slack to assert and maintain the rights and interests of the Corporation, says in his report to the Common Council, under date of February 6, 1854: "In the course of the past year or two, land has been gained from the North River by constructing a bulkhead from pier No. 20 to pier No. 23, between Vesey and Dey streets, and covering one acre, equal to 90 full lots. A map of this land, including Washington market, has been prepared by John S. Serrell. The new land is entirely outside of West street, *which at that point is the exterior line of the 400 feet granted to the Corporation by the charter of 1730*, usually called the Montgomerie grant. The bed of the river beyond the line of that street and of the 400 feet embraced in the charter belongs to the people of the State of New York, and before the land is sold [which he had recommended in his report], or any erections made on it, it is advisable to have the title settled by an act of the Legislature."

It would appear from the affidavit of Mr. Mott that the present Mayor of the city entertains similar opinions as to the title of the State.

The title to the premises in question would seem, then, to be free of all doubt in the people of this State. It has been so decided by the highest Court of the State, so recognized by the chief officers of the Corporation, and particularly the Controller, whose especial duty it is to look after the property of the Corporation. It is so averred in the complaint, and I have looked in vain in the papers put in to oppose this motion for any denial of the title of the State, or any averments that the title is in the Corporation.

As to the appointment of a receiver, this Court, by section 244, subdivision 1, of the Code, is authorized to appoint a receiver, before judgment, on the application of either party, where he establishes an apparent right to the property which is the subject of the action, and which is in the possession of the adverse party, and the property or its rents and profits are in danger of being lost, or materially injured or impaired.

Edwards, in his able work on receivers (edition of 1857, p. 18), says: "What is here meant by 'establishing an apparent right' is not very clear, when connected with an action before judgment. It is probable the use of the well-known term prima facie right is what is intended, and ought to have been the phrase."

It is undeniable that in this case the plaintiffs have established an apparent or prima facie right to the property, the subject of the action. It would seem to be well settled, where the right is clear and the party in possession has no legal title, to appoint a receiver in the first instance. Such was the case of Stillwell agt. Wilkins (6 Mad. C. R., 49), and on appeal to Lord Eldon, he affirmed the appointment. The case of Lancanshire agt. Lancanshire (9 Beavers, 120), is an authority for the position that when the legal title is clear and it is admitted, a receiver will be appointed. In Fingel agt. Blake (2 Mobrey, 50), a receiver was appointed to take the possession of property from the heir at law at the instance of a party claiming as devisee in trust under a will. In that case the Court was satisfied upon the merits that the heir was shut out from the inheritance, and therefore a trespasser.

In Cobb agt. O'Neill (3 Md. Ch. Dec. 174), the Chancellor says, in a case somewhat analogous to this: "This is not a case, therefore, where a receiver is put upon property against the legal title; but it is a case in which the plaintiff shows an equitable title to a part of the property and a legal and equitable title to another part, in which the defendant, upon the case *as it now stands*, makes out no title, legal or equitable, and in which the preservation of the property requires that it should be taken under the control of the Court."

In that case, as in this, there were a large number of tenants of the property in dispute, and litigation with them was anticipated.

Upon that principle, therefore, this Court would be justified in granting the motion for the appointment of a receiver; but, under the Code, the authority is expressly given, when the plaintiff, as in this case, establishes an apparent right to the property in controversy, and the property and its rents and profits are in danger of being lost or materially injured or impaired, to appoint a receiver.

In the present case, it is averred, and not denied, that the premises are in the occupancy of the defendants, other than the Corporation; that many of them are irresponsible and live out of the State; and it is quite apparent to me that up to the time of the commencement of this suit the City actually received, if any, but a small portion of the rents actually accruing from the premises. I think I cannot regard what has been done by the Mayor and Controller since this suit was instituted, to insure a more faithful collection of these rents and application and payment of them to the Corporation, however commendable, as an answer to this application. Before this suit was instituted, it is undeniable that the rents and profits of the premises were lost or certainly greatly injured or impaired. And I cannot resist the conviction that an attempt at the collection of the same by the defendants, the Corporation, under the circumstances, must greatly impair and injure them, if it does not result in a considerable loss.

The chief officer of the city and its chief financial officer have united in the opinion that the Corporation have no title to these premises, and in that view this Court concurs. With this known and authentic declaration of want of title in the Corporation, it is not to be supposed that these tenants, the other defendants, will voluntarily and willingly pay their rents to the Corporation or its agents, when its chief officers declare that they have no legal right to receive them. On the contrary, they will withhold them—litigation must ensue—and if they are not in danger of being wholly lost to the city or the State, or the lessees of the latter, they must be to some extent greatly injured and impaired.

A receiver unites in himself the title of the State, of the Corporation, and of the lessees of the State; and to him the tenants must pay the rents without demur, or look to any of the parties in interest.

It is so clearly for the interests of all concerned that a receiver should be appointed to hold the funds for the party ultimately adjudged entitled to them, that I entertain no doubt of my duty in the premises. The case being novel and important, I have consulted with two of my colleagues of this judicial district, who concur with me in the results at which I have arrived.

An order will therefore be entered appointing Cyrus Curtiss, esq., receiver of the rents and profits of the premises—the subjects of this action—with authority to let the same from time to time, not over six months, and to collect the rents of said premises which have accrued since the commencement of this suit; that the defendants, and all persons in possession of said premises under them, attorn to said receiver, and that he be let into the possession thereof; that said receiver give bonds for the faithful performance of his duties, with two sureties, in the sum of $20,000, and that he deposit all moneys received by him from time to time, whenever the amount shall equal the sum of $5,000, with the United States Trust Company.

COURT OF GENERAL SESSIONS—AUG. 2.—Before Recorder BARNARD.

The August term of this Court commenced to-day, before Recorder Barnard. There was no Grand Jury. The trial of Stephen H. Branch for libels on Mayor Tiemann, Peter Cooper and others, was postponed till to-morrow. The boy, Leroy Rasher, was sentenced by Judge Russell to imprisonment in the State Prison for the term of his natural life. It will be remembered that he pleaded guilty to manslaughter in the first degree, in killing the boy McCarthy.

BROOKLYN ITEMS.

Mr. Luther Petty, an old inhabitant of Moriches, Suffolk County, L. I, aged 68 left home July 22, for Smith's Point, Mastic, distant about seven miles, for the purpose of cutting grass upon the meadows, his usual custom every season for the last twenty-five years. While engaged in mowing he was, about 4 o'clock in the afternoon, taken with cramps and pains, which became so severe that he was unable to get to the house about 1½ miles distant or to attract the attention of any one. He crawled under his wagon, where he remained until about 8 o'clock the next morning, when he was discovered, chilled with cold and nearly speechless, by a neighbor, who conveyed him to the farm-house at the point, where every attention was paid to him, and from there sent him home. As he neared his home he revived and sat upon the shelvings of the wagon, but sank again as he arrived and died about three hours after getting to his house.

THE CITY COURT.—The City Court was organized yesterday by Mayor Powell and Supervisors Studwell and Smith (Judge Culver being absent), and as there was no business, adjourned till next Monday for the purpose of granting naturalization papers. Judge Culver will open Court on the 17th inst.

EXPLOSION IN A GREASE REFINERY, AND TWO MEN DANGEROUSLY INJURED.—Yesterday, about noon, a bone filter in the sugar refinery of Messrs. Finken & Wheatley, No. 48 Water street, exploded, and two men, named John Feldhouse and Christian Schickelman, were so severely scalded that their recovery is not expected. The filter was an upright one, and the men proceeded to remedy a defect at the bottom of it by means of a hammer, instead of a wrench, as they should have done. The force brought to bear upon the part broke off the bolt, and the man-hole being opened by the steam, both the men were scalded.